

REMARKS

This Amendment is in response to the Office Action of June 30, 2008 wherein the Examiner rejected claims 7-12.

The Examiner first rejected claims 7-12 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention.

In regard to Claim 7, the applicant understands that the objection may be caused by the inappropriate translation. The said two inappropriate expressions are further amended here according to the original disclosed claims of PCT/CN03/00005, wherein the expression "serving as accessories" has been amended to "serving as excipients", and the expression "buffer and water" has been amended to "buffer agent and water". The applicant believes that the amended expressions will be clear to a person skilled in this art.

In regard to Claim 8, the applicant has canceled the claim without prejudice.

In regard to Claim 9, the applicant has amended the claim in accordance with the suggestion of the Examiner.

In regard to Claim 10, the expression "according to your needs" has been deleted. The applicant believes that the amended Claim 10 is definite.

In regard to Claim 12, the applicants have recited the specific steps in Claim 12 in accordance with the Examiner's suggestion.

The Examiner has rejected Claims 7-9 under 35 U.S.C. 103(a) as being unpatentable over *Lee et al.* US 2003/0118616 in view of *West et al.* 4,781,871. The Examiner asserts that the use of mannitol instead of sorbitol in the liposomes of *Lee et al.* would have been obvious to one of ordinary skill in the art asserting *West et al.* teaches the equivalency between sorbitol and mannitol. Therefore, the applicants have deleted the option for the support substance "mannitol" in the claimed liposome in both independent claims 7 and 10, and recited the support substance as being "selected from the group consisting of sodium chloride, polyvinyl pyrrolidone, and mixtures thereof". The applicants believe that the use of these support substances is not taught by the reference documents, in other words, the amended claims are non-obvious to a person skilled in this art. Therefore, the amended claims are patentable.

The Examiner next rejected Claims 7-12 under 35 U.S.C. 103(a) as being unpatentable over *Keller* 6,610,322 by itself or in view of *Clerc* 5,939,096. The Examiner asserts that the use of mannitol as a cryoprotectant prior to lyophilizing or freeze-drying would have been obvious to one of ordinary skill in the art in light of *Keller*, alone or in conjunction with *Clerc*. Therefore, as stated above, the applicants have deleted the option of mannitol in the claimed liposome, and recited the support substance as being

"selected from the group consisting of sodium chloride, polyvinyl pyrrolidone, and mixtures thereof". The applicants believe that the use of these support substances is not taught by the reference documents, in other words, the amended claims are non-obvious to a person skilled in this art. Therefore, the amended claims are patentable.

The Examiner also rejected Claims 7-12 under 35 U.S.C. 103(a) as being unpatentable over either *Cole* 6,544,531 or *Meybeck* 5,034,228 in view of *Clerc* 5,939,096.


In regard to *Cole* or *Meybeck* in view of *Clerc* teaching the use of mannitol as a cryoprotectant before lyophilization, as stated above, the applicants have deleted the option for the support substance mannitol in the claimed liposome, and recited the support substance as being "selected from the group consisting of Sodium chloride, polyvinyl pyrrolidone, and mixtures thereof". The applicants believe that the use of these support substances is not taught by the reference documents, in other words, the amended claims are non-obvious to a person skilled in this art. Therefore, the amended claims are patentable.

Applicant submits that given the changes made to Claims 7, and 9-12, the rejections have been overcome and requests withdrawal of the rejections. Applicants have also added new claims 13 and 14 which should also be allowable based on the allowability of base claim 10.

The applicants submit that all Claims 7 and 9-14 should now be in condition for allowance.

Respectfully submitted,

By:



Randall T. Erickson, Reg. No. 33,872

Attorney Docket No.: 6480P0010US
The Law Office of Randall T. Erickson, P.C.
1729 S. Naperville Rd., Suite 202
Wheaton, Illinois 60189
Telephone: 630-665-9404
Fax: 630-665-9414
Customer No. 41528